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10/803,660

03/18/2004

Frederic Bauchot

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06/22/2009

IBM CORPORATION  
INTELLECTUAL PROPERTY LAW  
11501 BURNET ROAD  
AUSTIN, TX 78758

EXAMINER

TSUI, WILSON W

ART UNIT

PAPER NUMBER

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte:* FREDERIC BAUCHOT

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Appeal No. 2008-003884  
Application 10/803,660  
Technology Center 2100

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Mailed: June 22, 2009

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Before DALE M. SHAW *Chief Appeals Administrator*  
SHAW, *Chief Appeals Administrator*.

ORDER REMANDING TO EXAMINER

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This application was electronically received at the Board of Patent Appeals and Interferences on April 9, 2008. A Docketing Notice was mailed and Appeal No. 2008-3884 was assigned on June 6, 2008. A review of the application has revealed that the application was not ready for an

appeal. Accordingly, the application is herewith being remanded to the Examiner. The matter requiring attention is identified below.

### **EXAMINER'S ANSWER, GROUNDS OF REJECTION**

A review of the file finds that the grounds of rejection of the claims as provided in the Examiner's Answer mailed on July 18, 2007 under the heading "Grounds of rejection" is not consistent with the grounds of rejection of claims set forth in the last Office action of record. The grounds of rejection of the claims as provided in the Examiner's Answer must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Each Grounds of rejection to be reviewed on appeal must be identified and any new grounds of rejection must be provided under a separate heading "New Grounds of Rejection" in the Examiner's Answer and must include the approval of the TC Director or his/her designee. *See also Manual of Patent Examining Procedure* (MPEP) § 1207.02 and 1207.03 (8<sup>th</sup> ed. Rev. 6, Sept 2007) for details.

Specifically, the Examiner's Answer does not set forth: (1) Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Salas et al (US Patent: 5,317,686, published: May 31, 1994) and Hatakeda et al (US Patent: 6,057,837, published: May 2, 2000, filed: Jul. 15, 1997), in further view of MATHCAD (MathSoft Inc., published: August 1999, pages 140-141); (2) Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Salas et al (US Patent: 5,317,686, published: May 31, 1994) and Hatakeda et al (US Patent: 6,057,837, published: May 2, 2000, filed: Jul. 15, 1997), in

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further view of Hashemi (US Application: US 200310212804 A1, published: Nov. 13, 2003, filed: May 9, 2002); whereas the last Office action does. Correction of all Grounds of rejection for all claims is required.

### **CONCLUSION**

Accordingly, it is

ORDERED that this application be remanded to the Examiner:

- 1) to vacate the Examiner's Answer mailed on July 18, 2007;
- 2) to generate a new Examiner's Answer which:
  - 2a) sets forth the correct Grounds of rejection and to correct other sections of the Answer as may be required;
  - 2b) includes the approval of the TC Director or his/her designee (as required for any new grounds of rejection); if any; and
- 3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DMS/llw

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